

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

DENISE SELLERS,
Plaintiff

VS.

BNSF RAILWAY COMPANY

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§

C.A. NO. _____
"JURY"

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, DENISE SELLERS, hereinafter referred to as Plaintiff, complaining of and against BNSF RAILWAY COMPANY hereinafter referred to as Defendant, and for cause of action would show unto the Court as follows:

1. This is an action brought pursuant to rights secured by Title VII of the Act of Congress known as the Civil Rights Act of 1964, as amended, 42 USC §2000 et. seq., and particularly as amended by the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of gender discrimination which have been engaged in by Defendant to the detriment of Plaintiff, and to correct those unlawful employment practices through resort to all remedies authorized by Title VII and the Civil Rights Act of 1991. Thus, this is a suit for lost income, past, present and future, as well as all other actual damages incurred by the Plaintiff as a result of the discriminatory treatment at the hands of Defendant, together with an action for punitive damages.

2. Jurisdiction of this Court is invoked pursuant to 28 USC §§1331, 1337, 1343, 1345, 2201 and 2202. In addition, to the extent that this suit raises claims arising under the laws of the State of Texas, this Court may exercise its pendent jurisdiction over such claims.

The unlawful employment practices complained of in this suit were and are now being committed within the jurisdiction of this Court.

3. Plaintiff in this action is **DENISE SELLERS**, who is a citizen of the United States and, who at all material times hereto, was an employee of Defendant, **BNSF RAILWAY COMPANY**.

Defendant in this action is **BNSF RAILWAY COMPANY**, is a Delaware Corporation, which may be served with summons through its agent for service in the State of Texas, to-wit: C. T. Corporation, System, 350 North St. Paul, Dallas, TX 75201.

COUNT ONE

4. At all material times to this litigation, Defendant has intentionally engaged in practices and policies made unlawful by Title VII of the Civil Rights Act of 1964, as amended, as well as by the Civil Rights Act of 1991. The effect of these unlawful employment practices has been to create an employment atmosphere for Plaintiff, and others similarly situated, of inequality based upon gender discrimination, which has been created by the actions and circumstances

complained of by Plaintiff. Further, Plaintiff was discharged in retaliation for her complaint of Defendant's discriminatory conduct.

Throughout her tenure of employment with Defendant, **BNSF RAILWAY COMPANY**, Plaintiff has consistently performed for her employer in a loyal, dutiful, responsible and productive fashion. However, despite her performance, Plaintiff has been wrongfully terminated for so called violations and is being unfairly treated and discriminated against because of her gender and in retaliation for her prior charge of discrimination.

5. The unlawful employment practices of Defendant has deprived Plaintiff of her employment with Defendant.

6. Plaintiff filed a timely written Charge of Discrimination with the Equal Employment Opportunity Commission. The Equal Employment Opportunity Commission has made a determination that Plaintiff was subjected to a hostile work environment based on her sex and that she was discharged as a result of her previous complaints of sexual harassment. On January 26, 2011, the Equal Employment Opportunity Commission issued the Notice of Right to Sue for Plaintiff.

7. As a result of the foregoing and unlawful employment practices of the Defendant, Plaintiff has suffered cruel and unjust hardships in conscious disregard of the Plaintiff's rights. Such actions are and were intentional, in bad

faith and in total disregard of the Plaintiff's rights and with the intent of causing the Plaintiff emotional distress. Plaintiff has, in fact, suffered and will continue to suffer severe emotional distress as a result of these actions of Defendant, and Plaintiff is thus entitled to recover, in addition to actual and compensatory damages, punitive damages because of the nature of the actions of Defendant.

WHEREFORE, Plaintiff respectfully requests that this Defendant be cited to appear and answer herein, and that upon final trial hereof, the Court:

- a. Award actual damages which he has suffered as a result of Defendant's discriminatory conduct;
- b. Award Plaintiff damages for the extreme emotional distress which he has suffered as a result of Defendant's actions;
- c. Award Plaintiff punitive damages in an appropriate amount deemed sufficient to prevent this Defendant from repeating this discriminatory conduct;
- d. Award Plaintiff his costs, including reasonable attorney's fees'; and
- e. Award Plaintiff all other relief which the Court deems just and proper.

Respectfully submitted,

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